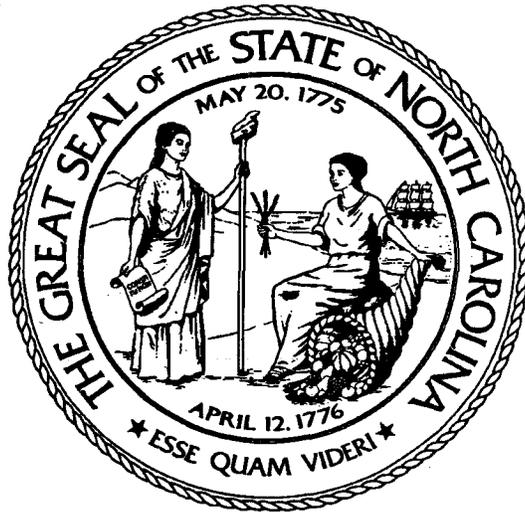


**REPORT OF THE
AGRICULTURE, FORESTRY, AND
SEAFOOD AWARENESS
STUDY COMMISSION**



**REPORT TO THE
1991 GENERAL ASSEMBLY
OF NORTH CAROLINA
1991 SESSION**

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INTRODUCTION

Executive Summary

The Agriculture, Forestry, and Seafood Awareness Study Commission met five times during the 1989-90 biennium. The Commission focused its attention this biennium on expanding the opportunities for diversification in agriculture and on identifying the problems limiting the future growth and development of horticulture. Based on its proceedings, the Commission recommends the following legislative proposals to the 1991-92 General Assembly:

- * AN ACT TO ALLOW FOR THE PRODUCTION AND SALE OF FALLOW DEER
- * AN ACT TO INCLUDE HORTICULTURE WITHIN THE DEFINITION OF AGRICULTURE
- * AN ACT TO CLARIFY THAT THE PRODUCTION OF CROPS, FRUITS, VEGETABLES, ORNAMENTAL AND FLOWERING PLANTS, ETC. IS A BONA FIDE FARM PURPOSE IN THE ZONING STATUTES
- * AN ACT TO ALLOW LAND USED TO PRODUCE TREES, SHRUBS, AND PLANTS GROWN IN CONTAINERS TO QUALIFY FOR PRESENT USE VALUE CLASSIFICATION

History of the Commission

The agriculture, forestry, and seafood industries have always played an essential and vital role in supporting both the rural and urban populations of North Carolina. Over the past decade, all of these industries have experienced severe financial setbacks and instability due to inclement weather, pollution problems, inflation, reduction in foreign exports, and other unavoidable circumstances. In order to insure that the agriculture, forestry, and seafood industries maintain their ability to produce for future needs, the 1983 General Assembly enacted HB 1169 (Chapter 914, 1983 Session Laws) which created the Agriculture, Forestry, and Seafood Awareness Study Commission. The Commission was successful from 1983 through 1985 in making findings and recommendations for the industries of agriculture, forestry, and seafood. Based on this success, the 1985 General Assembly permanently established the Agriculture, Forestry, and Seafood Awareness Study Commission in the law (Chapter 792, 1985 Session Laws) so it could continue to study these three industries. In 1989, the General Assembly established the permanent Joint Legislative Commission on Seafood and Aquaculture in the law (Chapter 802, 1989 Session Laws) to concentrate on the State's production, processing, and marketing of seafood. With the creation of the Commission on Seafood and Aquaculture, the Agriculture, Forestry, and Seafood Awareness Study Commission has begun to focus its attention on the needs of the agriculture and forestry industries.

Commission's Charge

G.S. § 120-154 authorizes the Agriculture, Forestry, and Seafood Awareness Study Commission to:

- * Study the influence of agriculture, forestry, and seafood on the economy of the State.
- * Develop alternative for increasing the public awareness of these industries.
- * Study the present status of the three industries.
- * Identify problems limiting the future growth and development of these industries.
- * Develop an awareness of the importance of science and technological development to the future of these industries.
- * Formulate plans for new State initiatives and support for these three industries and for the expansion of opportunities in these industries.

These duties form the foundation of the Agriculture, Forestry, and Seafood Awareness Study Commission's review of these industries and serve as a basis for its final recommendations.

Commission's Membership

The membership of the Commission includes citizens of North Carolina who are interested in the vitality of the agriculture, forestry, and seafood sectors of the State's economy. The Governor, the Lieutenant Governor, and the Speaker of the House of Representatives each appoint three members to this sixteen member commission. The following individuals also serve on the Commission:

- * The Chair of the House Agriculture Committee.
- * The Chair of the Senate Agriculture Committee.
- * The Commissioner of Agriculture or his designee.
- * A member of the Board of Agriculture.
- * The President of the N.C. Farm Bureau or his designee.
- * The Master of the State Grange or his designee.
- * The Secretary of the Department of Environment, Health, and Natural Resources.

The Chair of the House Agriculture Committee and the Chair of the Senate Agriculture Committee serve as the co-chairs of the Agriculture, Forestry, and Seafood Awareness Study Commission.

COMMISSION PROCEEDINGS

The Agriculture, Forestry, and Seafood Awareness Study Commission met five times during the 1988-90 biennium in Raleigh, North Carolina. The Commission conducted two tours during its course of study. The first tour included visits to the College of Forest Resources and the Department of Horticultural Science at North Carolina State University. The Commission also toured three of the area's nursery and greenhouse production facilities.

December 12, 1989 Meeting

The sixteen member Agriculture, Forestry, and Seafood Awareness Study Commission held its first meeting on December 12, 1989. Senator James D. Speed of Franklin County and Representative John W. Brown served as the Commission's co-chairs. Senator Speed presided and noted that the Commission would not specifically study the area of seafood since the General Assembly created a Joint Legislative Commission on Seafood and Aquaculture to study this subject during the 1989 Session. The Commission reviewed the legislation affecting the agriculture and forestry industries enacted during the 1989 Session.

Jim Graham, Commissioner of Agriculture, addressed the Commission members. Commissioner Graham stressed the importance of marketing North Carolina agriculture commodities. He outlined several promotional programs instituted recently including "Goodness Grows in North Carolina" and "Flavors of Carolina" and related North Carolina's participation in an international flavor exhibit held in Bermuda in 1989. North Carolina has a \$21 million industry in agriculture and he stated the Department of Agriculture's intent to keep that industry going strong.

Harry Layman, Director of the Division of Forest Resources, made a presentation to the Commission. He stressed the devastation that resulted from Hurricane Hugo. The loss of timber within the State from the storm was immense. He related Governor Martin's meeting with the industry's leaders to formulate plans for salvaging the downed timber.

February 8, 1990 Meeting

The Commission addressed a variety of topics at its second meeting on February 8, 1990. George Robinson, Director of the Division of Inheritance and Gift Tax for the N.C. Department of Revenue, answered the members questions on inheritance of family farms. He clarified that spouses are exempt from paying any inheritance taxes on family farms resulting from spousal deaths occurring after August 1, 1985. Sabra Faires, an attorney with the Fiscal Research Division of the General Assembly, updated the members on recent changes affecting farmers in the area of motor fuel taxation.

Wilfred "Red" Robbins, President of the N.C. Association of Nurserymen, expressed to the Commission the need for the horticulture industry to be uniformly defined within State government departments. Samuel Franklin, Jr., Chairman of the N.C. Farm Bureau Agricultural Nursery and Greenhouse Advisory Committee, also addressed the Commission on this subject. Under federal and some state regulations, horticulture and floriculture are included within the definition of agriculture. However,

there are conflicts under property tax laws regarding nurseries and greenhouses. There is also a need for uniform local definitions of agriculture for zoning purposes. Other areas of concern are fuel needs and taxation, farm vehicle licensing requirements, and environmental regulatory compliance.

Jim Flood, manager of Overhill Farms, asked the Commission to consider proposing legislation authorizing the production and sale of fallow deer. He pointed out that the venison is a healthy alternative meat because it is low in cholesterol and fat. Although North Carolina's climate provides an ideal location for raising fallow deer, the existing statutes do not allow venison to be commercially sold in the State. Tom Ellis, with the Department of Agriculture, acknowledged the Department's interest in forms of agricultural diversification and stated an interest in knowing more about the evaluations of this industry and the available markets for venison.

Harry Layman addressed the Commission and reported that all one hundred counties were now cooperating in the State Forestry Cooperation Program.

April 23, 1990 Meeting

The Commission met briefly on April 23, 1990, at the Legislative Building before departing on a tour of the College of Forest Resources and the Department of Horticultural Science at N.C. State University. After lunch, the tour concluded with a visit to the site of Integrated Aquaculture-Olericulture Research. Integrated aqua-vegetable culture combines fish and vegetable production in a single system.

November 19, 1990 Meeting

The Commission renewed its discussion of fallow deer at its fourth meeting on November 19, 1990. Kim Elliman of Overhill Farms stated that there exist an ever-growing market for fallow deer in the United States. The country currently receives most of its fallow deer from New Zealand. Scott Osborne, deer biologist with N.C. Wildlife Resources Commission, and Dr. David Marshall, Assistant Director of NCDA Meat and Poultry Inspection Service, advised the Commission to confine its deliberations to this particular species of deer and to consider requiring mandatory inspections of the exotic species. The Commission voted to recommend the bill draft entitled "AN ACT TO ALLOW THE PRODUCTION AND SALE OF FALLOW DEER", as amended to include the suggestions of Mr. Osborne and Dr. Marshall, to the 1991 General Assembly.

During this meeting, the Commission spent a great deal of time addressing several areas of concern to the producers of nursery and greenhouse crops. Although the legitimacy of nursery and greenhouse production as an agricultural commodity is straightforward in federal statutes, it is questionable at the state and local levels. The issue of legitimacy is becoming increasingly important as the growth of the horticulture industry rises. Doyle C. Johnson, Economic Research Service, U.S. Department of Agriculture, found that "The greenhouse-nursery industry is one of the fastest growth sectors in agriculture. Since 1982, it has grown at an average annual rate of 10% per year and in 1987 accounted for 11% of all farm cash receipts." In North Carolina, the agricultural nursery and greenhouse industry accounts for \$214 million dollars of income to the farmers of this State.

Samuel Franklin, Jr., President of the Commercial Flower Growers Association, told the Commission that the horticulture industry's greatest need is to be considered a bona fide part of agriculture so that it can be eligible for the same treatment as traditional agriculture. He said the draft bill entitled "AN ACT TO INCLUDE HORTICULTURE WITHIN THE DEFINITION OF AGRICULTURE" would help answer this need by providing producers of nursery and greenhouse crops more credibility, affecting some local issues like zoning, and hopefully by allowing horticulture to benefit from programs targeted for agriculture. The Commission voted to recommend this legislation to the 1991 General Assembly.

The General Assembly granted the counties the power to zone land so long as the regulations do not affect farm property used for bona fide farm purposes. The North Carolina Court of Appeals ruled in Baucom's Nursery Co. v Mecklenburg Co., 62 N.C. App. 396 (1983), that greenhouse and nursery products are a bona fide farm purpose. The draft bill entitled "AN ACT TO CLARIFY THAT THE PRODUCTION OF CROPS, FRUITS, VEGETABLES, ORNAMENTAL AND FLOWERING PLANTS, ETC. IS A BONA FIDE FARM PURPOSE IN THE ZONING STATUTES" seeks to codify this decision and provide a uniform local definition of agriculture for zoning purposes. The Commission voted to recommend this legislation to the 1991 General Assembly.

The Commission learned that in the event of a severe energy crisis, the Energy Division may enact provisions for the State set-aside allocation program to alleviate hardships and emergencies within the State. Under the State set-aside program, first priority for set-aside fuel may go to agricultural production. The rules define "agricultural production" to specifically exclude ornamental floriculture and nursery products. The people involved in nursery and greenhouse production fear that one night without adequate fuel would destroy their businesses. Although the Commission would not become involved in the rule-making process, it learned that individual groups could submit written comments to the Energy Division by December 27, 1990. A public hearing on these rules will be held in January of 1991.

Bill Wilder, Executive Director of the N.C. Association of Nurserymen, asked the Commission to consider the use requirements imposed on horticulture land for present use value classification. To qualify for the classification, at least one five acre tract must be used in the actual production of horticultural products. The Department of Revenue ruled that the plants must be grown in the ground to satisfy this requirement. Mr. Wilder explained that the nursery industry is rapidly moving toward large percentages of crops grown in containers sitting on the ground. The Commission asked counsel to draft a bill that would allow plants grown in containers during one or more stages of their maturing cycle to be sufficient to meet this requirement.

Harry Layman addressed the Commission and reported that the Department of Environment, Health, and Natural Resources has completed its policy on the best management practices for wetlands. He also reviewed the Division of Forest Resources' budget requests for the 1991-92 fiscal year.

December 6, 1990 Meeting

The Commission met a final time on December 6, 1990. The Commission voted to recommend the draft bill entitled "AN ACT TO ALLOW LAND USED TO PRODUCE TREES, SHRUBS, AND PLANTS GROWN IN CONTAINERS TO QUALIFY FOR PRESENT USE VALUE CLASSIFICATION" to the 1991 General Assembly. The Commission members reviewed the recommendations it made at its last meeting and approved the "Recommendations" and "Committee Proceedings" for its final report.

The Commission also participated in a tour of some of the area's nursery and greenhouse production operations. The Commission members visited the Lassiter Plant Farm prior to lunch and Fowler's Nurseries after lunch. The meeting concluded with a tour of the Fairview Greenhouses.

COMMITTEE RECOMMENDATIONS AND LEGISLATIVE PROPOSALS

The Agriculture, Forestry, and Seafood Awareness Study Commission recommends the following legislation to the 1991 General Assembly. The Commission's legislative proposals consist of four bills. The first bill, entitled the "Production and Sale of Fallow Deer", introduces a new livestock to the State's agricultural community. It provides diversification of the farm enterprises and a more efficient and profitable use of the area's soil and resources.

The remaining three bills address concerns of the horticulture industry. The Commission studied the present status of the agricultural nursery and greenhouse industry and identified several problems limiting its future growth and development. Local governments often do not treat the agricultural greenhouse and nursery industry in the same manner as they treat traditional agriculture. Questions arise over whether a greenhouse is permitted within an area where traditional agriculture is permitted. The industry is not given the same priority as traditional agriculture for energy and fuel needs during an energy crisis. It is also unclear whether the agricultural greenhouse and nursery industry is entitled to the benefit of programs and agencies made available to traditional agriculture industries.

The first bill, entitled "Horticulture Defined", amends the Agriculture Development Act to define "agriculture" as the cultivation of soil for the production of crops, including flowers and ornamental plants. It identifies the nursery and greenhouse industry as an integral part of agriculture. The second bill, entitled "Farm Purpose Includes Plants", codifies a recent North Carolina Court of Appeals decision that acknowledged the growing of flowering plants and shrubs as a bona fide farming purpose. The third bill, entitled "Use Value for Plants in Containers", extends the preferential tax treatment of present use valuation to acres used in the production of plants grown in containers, as opposed to plants grown in the ground.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

D

PROPOSAL 1 (AGSC-RB91-18)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Raising Fallow Deer.

(Public)

Sponsors: *****

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW FOR THE PRODUCTION AND SALE OF FALLOW DEER.
3 The General Assembly of North Carolina enacts:
4 Section 1. Chapter 106 of the General Statutes of North
5 Carolina is amended to add a new Article to read:
6 "ARTICLE 49H
7 Production and Sale of Fallow Deer
8 "§ 106-549.97. Regulation of fallow deer by Department of
9 Agriculture; certain authority of North Carolina Wildlife
10 Resources Commission not affected.
11 (a) The Department of Agriculture shall regulate the
12 production and sale of fallow deer for food purposes. The Board
13 of Agriculture shall adopt rules for the production and sale of
14 fallow deer for food purposes in such a manner as to provide for
15 close supervision of any person, firm, or corporation producing
16 and selling fallow deer for food purposes.
17 As used in this section, 'fallow deer' (Dama dama spp.) means a
18 small European deer raised commercially for production and sale
19 for food purposes.

1 (b) The North Carolina Wildlife Resources Commission shall
2 regulate the possession and transportation of live fallow deer."

3 Sec. 2. G.S. 113-129(1b) is rewritten to read:

4 "(1b) Big Game. -- ~~Deer, bear, Bear,~~ wild boar, and wild
5 ~~turkey-~~ turkey, and wild deer, not to include fallow deer raised
6 for production and sale under G.S. 106-549.97."

7 Sec. 3. G.S. 105-549.15(14) reads as rewritten:

8 "(14) 'Meat food product' means any product capable of use as
9 human food which is made wholly or in part from any meat
10 or other portion of the carcass of any cattle, sheep,
11 swine, ~~or goats,~~ goats, or fallow deer, excepting
12 products which contain meat or other portions of such
13 carcasses only in a relatively small proportion or
14 historically have not been considered by consumers as
15 products of the meat food industry, and which are
16 exempted from definition as a meat food product by the
17 Board under such conditions as it may prescribe to
18 assure that the meat or other portions of such carcasses
19 contained in such product are not adulterated and that
20 such products are not represented as meat food products.
21 This term as applied to food products of equines shall
22 have a meaning comparable to that provided in this
23 subdivision with respect to cattle, sheep, swine, and
24 goats."

25 Sec. 4. G.S. 106-549.17 reads as rewritten:

26 **"106-549.17. Inspection of animals before slaughter; humane**
27 **methods of slaughtering.**

28 (a) For the purpose of preventing the use in intrastate
29 commerce, as hereinafter provided, of meat and meat food products
30 which are adulterated, the Commissioner shall cause to be made,
31 by inspectors appointed for that purpose, an examination and
32 inspection of all cattle, sheep, swine, goats, fallow deer,
33 horses, mules, and other equines before they shall be allowed to
34 enter into any slaughtering, packing, meat-canning, rendering, or
35 similar establishment in this State in which slaughtering and

1 preparation of meat and meat food products of such animals are
2 conducted for intrastate commerce; and all cattle, sheep, swine,
3 goats, fallow deer, horses, mules, and other equines found on
4 such inspection to show symptoms of disease shall be set apart
5 and slaughtered separately from all other cattle, sheep, swine,
6 goats, fallow deer, horses, mules, or other equines, and when so
7 slaughtered, the carcasses of said cattle, sheep, swine, goats,
8 fallow deer, horses, mules, or other equines shall be subject to
9 a careful examination and inspection, all as provided by the
10 rules and regulations to be prescribed by the Board as herein
11 provided for.

12 (b) For the purpose of preventing the inhumane slaughtering of
13 livestock, the Commissioner shall cause to be made, by inspectors
14 appointed for that purpose, an examination and inspection of the
15 method by which cattle, sheep, swine, goats, fallow deer, horses,
16 mules, and other equines are slaughtered and handled in
17 connection with slaughter in the slaughtering establishments
18 inspected under this law. The Commissioner may refuse to provide
19 inspection to a new slaughtering establishment or may cause
20 inspection to be temporarily suspended at a slaughtering
21 establishment if the Commissioner finds that any cattle, sheep,
22 swine, goats, fallow deer, horses, mules, or other equines have
23 been slaughtered or handled in connection with slaughter at such
24 establishment by any method not in accordance with subsection (c)
25 of this section until the establishment furnishes assurances
26 satisfactory to the Commissioner that all slaughtering and
27 handling in connection with slaughter of livestock shall be in
28 accordance with such a method.

29 (c) Either of the following two methods of slaughtering of
30 livestock and handling of livestock in connection with slaughter
31 are found to be humane:

32 (1) In the case of cattle, calves, fallow deer, horses,
33 mules, sheep, swine, and other livestock, all animals
34 are rendered insensible to pain by a single blow or
35 gunshot or an electrical, chemical, or other means that

1 is rapid and effective, before being shackled, hoisted,
2 thrown, cast, or cut; or

3 (2) By slaughtering in accordance with the ritual
4 requirements of the Jewish faith or any other religious
5 faith that prescribes a method of slaughter whereby the
6 animal suffers loss of consciousness by anemia of the
7 brain caused by the simultaneous and instantaneous
8 severance of the carotid arteries with a sharp
9 instrument and handling in connection with such
10 slaughtering."

11 Sec. 5. G.S. 106-549.18 reads as rewritten:

12 "106-549.18. Inspection; stamping carcass. For the purposes
13 hereinbefore set forth the Commissioner shall cause to be made by
14 inspectors appointed for that purpose, as hereinafter provided, a
15 post mortem examination and inspection of the carcasses and parts
16 thereof of all cattle, sheep, swine, goats, fallow deer, horses,
17 mules, and other equines, capable of use as human food, to be
18 prepared at any slaughtering, meat-canning, salting, packing,
19 rendering, or similar establishment in this State in which such
20 articles are prepared for intrastate commerce; and the carcasses
21 and parts thereof of all such animals found to be not adulterated
22 shall be marked, stamped, tagged, or labeled, as "Inspected and
23 Passed"; and said inspectors shall label, mark, stamp, or tax as
24 "Inspected and Condemned," all carcasses and parts thereof of
25 animals found to be adulterated; and all carcasses and parts
26 thereof thus inspected and condemned shall be destroyed for food
27 purposes by the said establishment in the presence of an
28 inspector, and the Commissioner or his authorized representative
29 may remove inspectors from any such establishment which fails to
30 so destroy any such condemned carcass or part thereof, and said
31 inspectors, after said first inspection shall, when they deem it
32 necessary, reinspect said carcasses or parts thereof to determine
33 whether since the first inspection the same have become
34 adulterated and if any carcass or any part thereof shall, upon
35 examination and inspection subsequent to the first examination

1 and inspection, be found to be adulterated, it shall be destroyed
2 for food purposes by the said establishment in the presence of an
3 inspector, and the Commissioner or his authorized representative
4 may remove inspectors from any establishment which fails to [do]
5 so destroy any such condemned carcass or part thereof."

6 Sec. 6. G.S. 106-549.19 reads as rewritten:

7 "106-549.19. Application of Article; place of inspection. The
8 foregoing provisions shall apply to all carcasses or parts of
9 carcasses of cattle, sheep, swine, goats, fallow deer, horses,
10 mules, and other equines or the meat or meat products thereof,
11 capable of use as human food, which may be brought into any
12 slaughtering, meat-canning, salting, packing, rendering, or
13 similar establishment, where inspection under this Article is
14 maintained, and such examination and inspection shall be had
15 before the said carcasses or parts thereof shall be allowed to
16 enter into any department wherein the same are to be treated and
17 prepared for meat food products; and the foregoing provisions
18 shall also apply to all such products which, after having been
19 issued from any such slaughtering, meat-canning, salting,
20 packing, rendering, or similar establishment, shall be returned
21 to the same or to any similar establishment where such inspection
22 is maintained. The Commissioner or his authorized representative
23 may limit the entry of carcasses, part of carcasses, meat and
24 meat food products, and other materials into any establishment at
25 which inspection under this Article is maintained, under such
26 conditions as he may prescribe to assure that allowing the entry
27 of such articles into such inspected establishments will be
28 consistent with the purposes of this and the subsequent Article."

29 Sec. 7. G.S. 106-549.22 reads as rewritten:

30 "106-549.22. Rules and regulations of Board. The Commissioner or
31 his authorized representative shall cause to be made, by experts
32 in sanitation, or by other competent inspectors, such inspection
33 of all slaughtering, meat-canning, salting, packing, rendering,
34 or similar establishments in which cattle, sheep, swine, goats,
35 fallow deer, horses, mules, and other equines are slaughtered and

1 the meat and meat food products thereof are prepared for
2 intrastate commerce as may be necessary to inform himself
3 concerning the sanitary conditions of the same, and the Board
4 shall prescribe the rules and regulations of sanitation under
5 which such establishments shall be maintained; and where the
6 sanitary conditions of any such establishment are such that the
7 meat or meat food products are rendered adulterated, the
8 Commissioner or his authorized representative shall refuse to
9 allow said meat or meat food products to be labeled, marked,
10 stamped, or tagged as 'North Carolina Department of Agriculture
11 Inspected and Passed.'"

12 Sec. 8. G.S. 106-549.23 reads as rewritten:

13 "106-549.23. Prohibited slaughter, sale and transportation. No
14 person, firm, or corporation shall, with respect to any cattle,
15 sheep, swine, goats, fallow deer, horses, mules, or other
16 equines, or any carcasses, parts of carcasses, meat or meat food
17 products of any such animals:

- 18 (1) Slaughter any of these animals or prepare any of these
19 articles which are capable of use as human food, at any
20 establishment preparing any such articles for intrastate
21 commerce except in compliance with the requirements of
22 this and the subsequent Article;
- 23 (2) Slaughter, or handle in connection with slaughter, any
24 such animals in any manner not in accordance with G.S.
25 106-549.17(c) of this Article;
- 26 (3) Sell, transport, offer for sale or transportation, or
27 receive for transportation, in intrastate commerce:
- 28 a. Any of these articles which (i) are capable of use
29 as human food and (ii) are adulterated or
30 misbranded at the time of sale, transportation,
31 offer for sale or transportation, or receipt for
32 transportation; or
- 33 b. Any articles required to be inspected under this
34 Article unless they have been so inspected and
35 passed; or

1 (4) Do, with respect to any of these articles which are
2 capable of use as human food, any act while they are
3 being transported in intrastate commerce or held for
4 sale after such transportation, which is intended to
5 cause or has the effect of causing the articles to be
6 adulterated or misbranded."

7 Sec. 9. G.S. 106-549.25 reads as rewritten:

8 "106-549.25. Slaughter, sale and transportation of equine
9 carcasses. No person, firm, or corporation shall sell,
10 transport, offer for sale or transportation, or receive for
11 transportation, in intrastate commerce, any carcasses of horses,
12 mules, or other equines or parts of such carcasses, or the meat
13 or meat food products thereof, unless they are plainly and
14 conspicuously marked or labeled or otherwise identified as
15 required by regulations prescribed by the Board to show the kinds
16 of animals from which they were derived. When required by the
17 Commissioner or his authorized representative, with respect to
18 establishments at which inspection is maintained under this
19 Article, such animals and their carcasses, parts thereof, meat
20 and meat food products shall be prepared in establishments
21 separate from those in which cattle, sheep, swine, fallow deer,
22 or goats are slaughtered or their carcasses, parts thereof, meats
23 or meat food products are prepared."

24 Sec. 10. G.S. 106-549.26 reads as rewritten:

25 "106-549.26. Inspection of establishment; bribery of or
26 malfeasance of inspector. The Commissioner or his authorized
27 representative shall appoint from time to time inspectors to make
28 examination and inspection of all cattle, sheep, swine, goats,
29 fallow deer, horses, mules, and other equines the inspection of
30 which is hereby provided for, and of all carcasses and parts
31 thereof, and of all meats and meat food products thereof, and of
32 the sanitary conditions of all establishments in which such meat
33 and meat food products hereinbefore described are prepared; and
34 said inspectors shall refuse to stamp, mark, tag or label any
35 carcass or any part thereof, or meat food product therefrom,

1 prepared in any establishment hereinbefore mentioned, until the
2 same shall have actually been inspected and found to be not
3 adulterated; and shall perform such other duties as are provided
4 by this and the subsequent Article and by the rules and
5 regulations to be prescribed by said Board and said Board shall,
6 from time to time, make such rules and regulations as are
7 necessary for the efficient execution of the provisions of this
8 and the subsequent Article, and all inspections and examinations
9 made under this Article shall be such and made in such manner as
10 described in the rules and regulations prescribed by said Board
11 not inconsistent with the provisions of this Article and as
12 directed by the Commissioner or his authorized representative.
13 Any person, firm, or corporation, or any agent or employee of any
14 person, firm, or corporation, who shall give, pay, or offer,
15 directly or indirectly, to any inspector, or any other officer or
16 employee of this State authorized to perform any of the duties
17 prescribed by this and the subsequent Article or by the rules and
18 regulations of the Board or by the Commissioner or his authorized
19 representative any money or other thing of value, with intent to
20 influence said inspector, or other officer or employee of this
21 State in the discharge of any duty herein provided for, shall be
22 deemed guilty of a felony and, upon conviction thereof, shall be
23 punished by a fine not less than five hundred dollars (\$500.00)
24 nor more than ten thousand dollars (\$10,000) and by imprisonment
25 for not less than one year nor more than three years; and any
26 inspector, or other officer or employee of this State authorized
27 to perform any of the duties prescribed by this Article who shall
28 accept any money, gift, or other thing of value from any person,
29 firm, or corporation, or officers, agents, or employees thereof,
30 given with intent to influence his official action, or who shall
31 receive or accept from any person, firm, or corporation engaged
32 in intrastate commerce any gift, money, or other thing of value
33 given with any purpose or intent whatsoever, shall be deemed
34 guilty of a felony and shall, upon conviction thereof, be
35 summarily discharged from office and shall be punished by a fine

1 not less than five hundred dollars (\$500.00) nor more than ten
2 thousand dollars (\$10,000) and by imprisonment for not less than
3 one year nor more than three years."

4 Sec. 11. G.S. 106-549.27(a) reads as rewritten:

5 "(a) The provisions of this Article requiring inspection of the
6 slaughter of animals and the preparation of the carcasses, parts
7 thereof, meat and meat food products at establishments conducting
8 such operations shall not

9 (1) Apply to the slaughtering by any person of animals of
10 his own raising, and the preparation by him and
11 ~~transportation~~ transportation in intrastate commerce of
12 the carcasses, parts thereof, meat and meat food
13 products of such animals exclusively for use by him and
14 members of his household and his nonpaying guests and
15 employees; nor

16 (2) To the custom slaughter by any person, firm, or
17 corporation of cattle, sheep, ~~swine or swine~~, fallow
18 deer, or goats delivered by the owner thereof for such
19 slaughter, and the preparation by such slaughterer and
20 transportation in intrastate commerce of the carcasses,
21 parts thereof, meat and meat food products of such
22 animals, exclusively for use, in the household of such
23 owner, by him, and members of his household and his
24 nonpaying guests and employees: Provided, that all
25 carcasses, parts thereof, meat and meat food products
26 derived from custom slaughter shall be identified as
27 required by the Commissioner, during all phases of
28 slaughtering, chilling, cooling, freezing, packing, meat
29 canning, rendering, preparation, storage and
30 transportation; provided further, that the custom
31 slaughterer does not engage in the business of buying or
32 selling any carcasses, parts thereof, meat or meat food
33 products of any cattle, sheep, swine, ~~goats or goats~~,
34 fallow deer, or equines, capable of use as human food,
35 unless the carcasses, parts thereof, meat or meat food

1 products have been inspected and passed and are
2 identified as having been inspected and passed by the
3 Commissioner or the United States Department of
4 Agriculture."

5 Sec. 12. G.S. 106-549.28 reads as rewritten:

6 "106-549.28. Regulation of storage of meat. The Board may by
7 regulations prescribe conditions under which carcasses, parts of
8 carcasses, meat, and meat food products of cattle, sheep, swine,
9 goats, fallow deer, horses, mules, or other equines, capable of
10 use as human food, shall be stored or otherwise handled by any
11 person, firm, or corporation engaged in the business of buying,
12 selling, freezing, storing, or transporting, in or for intrastate
13 commerce, such articles, whenever the Board deems such action
14 necessary to assure that such articles will not be adulterated or
15 misbranded when delivered to the consumer. Willful violation of
16 any such regulation is a misdemeanor and punishable by a fine of
17 not over five hundred dollars (\$500.00) and imprisonment for not
18 over six months or both fine and imprisonment."

19 Sec. 13. This act is effective upon ratification.

EXPLANATION OF PROPOSAL 1

Legislative Proposal 1 allows farmers in North Carolina to raise fallow deer for production and sale. Fallow deer is a small European deer raised commercially for food purposes. Four states authorize the production and sale of fallow deer--Texas, Florida, New York, and Virginia. North Carolina's climate, as well as the demand for the venison, make this industry a healthy and profitable opportunity for agriculture diversification in the State.

Section 1 of the proposal allows fallow deer to be produced and sold for food purposes. The Department of Agriculture is responsible for regulating and adopting rules for its production and sale. The North Carolina Wildlife Resources Commission is responsible for regulating the possession and transportation of live fallow deer.

Under G.S. § 113-294, it is unlawful to sell, or to possess for sale, any deer in this State. Section 2 of the proposal amends the definition of "Big Game" in the wildlife resources statutes to exclude fallow deer. This section is necessary to insure that fallow deer may be commercially raised for food purposes.

Sections 3 through 12 of the proposal amend Article 49B of Chapter 106, the Meat Inspection statutes, to require the inspection of fallow deer. This Article insures that the meat inspected under it and distributed to consumers is wholesome, not adulterated, and properly marked, labeled, and packaged.

Section 13 makes this act effective upon ratification.

EXPLANATION OF PROPOSAL 2

Legislative Proposal 2 defines the term "agriculture" in the Agricultural Development Act to include the production of fruits, vegetables, flowers, and ornamental plants. The General Assembly enacted the Agriculture Development Act in 1959 to provide for a plan of assistance to the State's citizens in increasing agricultural income. The Act provides the means through which various departments and agencies of the State can cooperate and coordinate activities designed to:

- * Develop new and improved methods of production, marketing, distribution, and processing of agricultural commodities.
- * Develop new uses and markets for agricultural commodities.
- * Offer research, counsel, and advise on new and more profitable uses of agricultural resources.
- * Improve the efficiency of farm buildings and machinery.
- * Develop techniques relating to the diversification of farm enterprises.
- * Offer assistance in appraising opportunities for making fuller use of the natural, human, and community resources.

The Agriculture, Forestry, and Seafood Awareness Study Commission spent a great deal of time discussing the problems encountered by the horticulture industry. One of the industry's greatest needs is to be considered a bona fide part of the agriculture industry of this State. By amending the Agricultural Development Act to specifically include the production of flowers and ornamental plants, the horticulture industry's claim to be a component of agriculture is given greater credibility. It also allows the horticulture industry to benefit from the programs, facilities, and agencies provided to the agricultural community through the Agricultural Development Act.

This act is effective upon ratification.

1 intent and in accordance with general or specific rules therein
2 contained. The regulations may also provide that the board of
3 adjustment or the board of commissioners may issue special use
4 permits or conditional use permits in the classes of cases or
5 situations and in accordance with the principles, conditions,
6 safeguards, and procedures specified therein and may impose
7 reasonable and appropriate conditions and safeguards upon these
8 permits. Where appropriate, the conditions may include
9 requirements that street and utility rights-of-way be dedicated
10 to the public and that recreational space be provided. When
11 issuing or denying special use permits or conditional use
12 permits, the board of commissioners shall follow the procedures
13 for boards of adjustment except that no vote greater than a
14 majority vote shall be required for the board of commissioners to
15 issue such permits, and every such decision of the board of
16 commissioners shall be subject to review by the superior court by
17 proceedings in the nature of certiorari.

18 A county may regulate the development over estuarine waters and
19 over lands covered by navigable waters owned by the State
20 pursuant to G.S. 146-12, within the bounds of that county.

21 For the purpose of this section, the term "structures" shall
22 include floating homes. Any petition for review by the superior
23 court shall be filed with the clerk of superior court within 30
24 days after the decision of the board of commissioners is filed in
25 such office as the ordinance specifies, or after a written copy
26 thereof is delivered to every aggrieved party who has filed a
27 written request for such copy with the clerk at the time of the
28 hearing of the case, whichever is later. The decision of the
29 board of commissioners may be delivered to the aggrieved party
30 either by personal service or by registered mail or certified
31 mail return receipt requested."

32 Sec. 2. This act is effective upon ratification.

EXPLANATION OF LEGISLATIVE PROPOSAL 3

Legislative Proposal 3 clarifies that the production of crops, fruits, vegetables, ornamental and flowering plants, etc. is a bona fide farm purpose within the zoning statutes. The General Assembly granted the counties the power to zone property so long as the regulations did not affect bona fide farms being used for bona fide farm purposes. The North Carolina Court of Appeals ruled in Baucom's Nursery Co. v Mecklenburg Co., 62 N.C. App. 396 (1983), that the production of greenhouse and nursery plants constitutes a bona fide farm purpose. This proposal seeks to codify this decision and provide a uniform local definition of agriculture for zoning purposes.

In 1979, Mecklenburg County zoned some property for single family residences. The plaintiff in the case mentioned above grew vegetable plants, flowering plants, and shrubs on 19.6 acres of the property that was zoned for single family residences. The County argued that the land was not being used for bona fide farm purposes and that the activity on the property was in violation of the zoning ordinance. The Court ruled that although the plaintiff's operation did not fit the "traditional and historic concept of a 'farm'", it did constitute a bona fide farm.

The Court reviewed several statutes to discern the public policy of North Carolina. It found many statutes declaring the State's policy to promote and encourage the preservation of farmland, the efficient production of the products of the soil, and the increased use and sale of agricultural commodities. Under G.S. § 106-550, the State's policy is to encourage the production, use, and sale of agricultural commodities, which the statute defines to include fruits and vegetables as well as flowers and bulbs.

Members of the horticulture industry revealed to the Agriculture, Forestry, and Seafood Awareness Study Commission that the definition of a "bona fide farm" varied from county to county. As the urban limits continue to expand into the once rural areas, many agricultural nursery and greenhouse growers face the possibility of being zoned off sites they have produced for many years. This proposal seeks to limit this possibility and to create a uniform local definition of "bona fide farm purpose" by declaring that the production of nursery and greenhouse products is a bona fide farm purpose.

This act is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S/H

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PROPOSAL 4 (AGSC-RB91-17)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Use Value for Plants in Containers. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW LAND USED TO PRODUCE TREES, SHRUBS, AND PLANTS
3 GROWN IN CONTAINERS TO QUALIFY FOR PRESENT USE VALUE
4 CLASSIFICATION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 105-277.3(a) reads as rewritten:
7 "(a) The following classes of property are hereby designated
8 special classes of property under authority of Article V, Sec.
9 2(2) of the North Carolina Constitution and shall be appraised,
10 assessed and taxed as hereinafter provided:
11 (1) Individually owned agricultural land consisting of one or
12 more tracts, one of which consists of at least 10 acres that are
13 in actual production and that, for the three years preceding
14 January 1 of the year for which the benefit of this section is
15 claimed, have produced an average gross income of at least one
16 thousand dollars (\$1,000). Gross income includes income from the
17 sale of the agricultural products produced from the land and any
18 payments received under a governmental soil conservation or land
19 retirement program. Land in actual production includes land under
20 improvements used in the commercial production or growing of
21 crops, plants, or animals.
22 (2) Individually owned horticultural land consisting of one or
23 more tracts, one of which consists of at least five acres that
24 are in actual production of trees, shrubs, or plants in the

1 ground or grown in containers during one or more stages of their
2 maturing cycle and that, for the three years preceding January 1
3 of the year for which the benefit of this section is claimed,
4 have produced an average gross income of at least one thousand
5 dollars (\$1,000). Gross income includes income from the sale of
6 the horticultural products produced from the land and any
7 payments received under a governmental soil conservation or land
8 retirement program. Land in actual production includes land under
9 improvements used in the commercial production or growing of
10 fruits or vegetables or nursery or floral products.

11 (3) Individually owned forestland consisting of one or more
12 tracts, one of which consists of at least 20 acres that are in
13 actual production and are not included in a farm unit."

14 Sec. 2. This act is effective for taxes imposed for
15 taxable years beginning on or after July 1, 1991.

16

EXPLANATION OF PROPOSAL 4

Legislative Proposal 4 will allow nurseries that grow plants in containers to continue to qualify for present use value taxation. G.S. § 105-283 requires property to be taxed at its true value in its "highest and best use". The present use value classification allows property to be taxed at the value of the land in its present use, rather than the value of the land at its "highest and best use".

Land used to produce fruits, vegetables, nursery, or floral products may be designated as a special class of property and taxed at its present use value if it meets all of the following qualifications:

- * Is under a sound management plan.
- * Has at least one five acre tract that is in actual production.
- * Has produced an average gross income of at least \$1,000 for the three years preceding January 1 of the year for which the benefit of the classification is claimed.
- * Is owned by a natural person or a family corporation whose primary business is horticulture.
- * Is the owner's place of residence or has been owned by the present owner, or a relative of the present owner, for at least four years.

The Department of Revenue ruled that the second qualification mentioned above requires horticultural products to be grown in the ground. Under this determination, a horticultural unit would not meet the requirements if there was not at least five acres of horticultural products planted in the ground. The nursery industry is rapidly moving toward large percentages of crops grown in containers sitting on the ground.

This proposal amends G.S. 105-277.3(a)(2) to allow trees, shrubs, and plants grown in containers during one or more stages of their maturing cycle sufficient to meet the requirement that at least five acres be in actual production. The act is effective for taxes imposed for taxable years beginning on or after July 1, 1991.

APPENDIX A

AUTHORIZING LEGISLATION

ARTICLE 19.

Commission on Agriculture, Forestry, and Seafood Awareness.

§ 120-150. Creation; appointment of members.

There is created an Agriculture, Forestry, and Seafood Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture, forestry, and seafood sectors of the State's economy. Members shall be as follows:

- (1) Three appointed by the Governor;
- (2) Three appointed by the President of the Senate;
- (3) Three appointed by the Speaker of the House;
- (4) The chairman of the House Agriculture Committee;
- (5) The chairman of the Senate Agriculture Committee;
- (6) The Commissioner of Agriculture or his designee;
- (7) A member of the Board of Agriculture designated by the chairman of the Board of Agriculture;
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or his designee;
- (9) The Master of the North Carolina State Grange or his designee; and
- (10) The Secretary of the Department of Environment, Health, and Natural Resources.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively.

§120-151. Advisory Committee.

Upon proper motion and by a vote of a majority of the members present, the Commission may appoint an Advisory Committee. Members of the Advisory Committee should be from the various organizations, commodity groups, associations, and councils representing agriculture, forestry, and seafood. The purpose of the Advisory Committee shall be to render technical advice and assistance to the Commission. The Advisory Committee shall consist of no more than 20 members plus a chairman who shall be appointed by the cochairmen of the Commission.

§120-152. Subsistence and travel expenses.

The members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Members who are officials or employees of the State of North Carolina shall receive subsistence and travel allowances at the rate set forth in G.S. 138-6. All other members plus the Chairman of the Advisory Committee shall be paid the per diem allowances at the rates set

forth in G.S. 138-5. Other members of the Advisory Committee shall serve on a voluntary basis and not receive subsistence and travel expenses.

§120-153. Facilities and staff.

The Commission may hold its meetings in the State Legislative Building with the approval of the Legislative Services Commission. The Legislative Services Commission shall provide necessary professional and clerical assistance to the Commission.

§120-154. Duties.

The Commission shall bring to the attention of the General Assembly the influence of agriculture, forestry, and seafood on the economy of the State, develop alternatives for increasing the public awareness of agriculture, forestry, and seafood, study the present status of agriculture, forestry, and seafood, identify problems limiting future growth and development of the industry, develop an awareness of the importance of science and technological development to the future of agriculture, forestry, and seafood industries, and formulate plans for new State initiatives and support for agriculture, forestry, and seafood and for the expansion of opportunities in these sectors.

In conducting its study the Commission may hold public hearings and meetings across the State.

The Commission shall report to the General Assembly at least one month prior to the first regular session of each General Assembly.

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